

Government of India
Ministry of Commerce and Industry
Department of Industrial Policy & Promotion

Press Note No. 7 (2013 Series)

Subject:- Amendment of the existing policy on issue of shares by unlisted Indian Companies under FCCB/ADR/GDR, pursuant to the Foreign Currency Convertible Bonds and Ordinary shares (Through Depository Receipt Mechanism) (Amendment) Scheme, 2013.

1.0 Present Position:

1.1 Paragraph 3.3.4 (iii) of the 'Consolidated FDI Policy', effective from April 5, 2013, relating to the issue of shares by unlisted Indian Companies under FCCB/ADR/GDR, reads as below:-

(iii) Unlisted companies, which have not yet accessed the ADR/GDR route for raising capital in the international market, would require prior or simultaneous listing in the domestic market, while seeking to issue such overseas instruments. Unlisted companies, which have already issued ADRs/GDRs in the international market, have to list in the domestic market on making profit or within three years of such issue of ADRs/GDRs, whichever is earlier. ADRs/GDRs are issued on the basis of the ratio worked out by the Indian company in consultation with the Lead Manager to the issue. The proceeds so raised have to be kept abroad till actually required in India. Pending repatriation or utilization of the proceeds, the Indian company can invest the funds in:-

- (a) Deposits, Certificate of Deposits or other instruments offered by banks rated by Standard and Poor, Fitch, IBCA, Moody's etc. with rating not below the rating stipulated by Reserve Bank from time to time for the purpose;
- (b) Deposits with branch/es of Indian Authorized Dealers outside India; and
- (c) Treasury bills and other monetary instruments with a maturity or unexpired maturity of one year or less.

2.0 Revised Position:

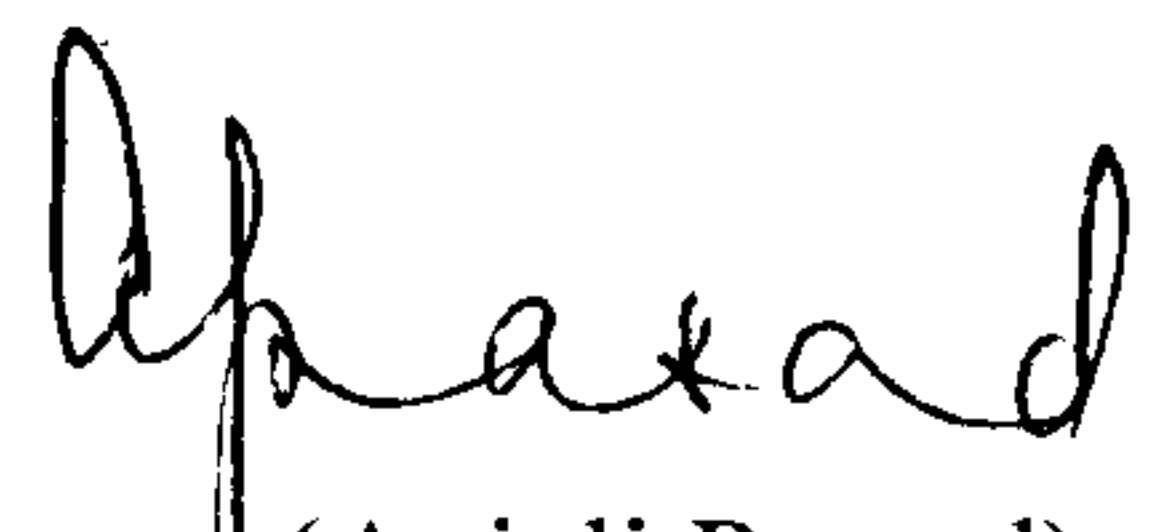
2.1 The Government of India has reviewed the position in this regard and notified the Foreign Currency Convertible Bonds and Ordinary shares (Through Depository Receipt Mechanism) (Amendment) Scheme, 2013 vide Notification no. G.S.R. 684 (E) dated 11th October, 2013.

2.2 Accordingly, Paragraph 3.3.4 (iii) of the 'Consolidated FDI Policy, effective from April 5, 2013, is replaced by the following:

“Unlisted companies shall be allowed to raise capital abroad without the requirement of prior or subsequent listing in India initially for a period for two years subject to the following conditions:

- (a) Unlisted companies shall list abroad only on exchanges in IOSCO/FATF compliant jurisdictions or those jurisdictions with which SEBI has signed bilateral agreements;
- (b) The Companies shall file a copy of the return which they submit to the proposed exchange/regulators also to SEBI for the purpose of Prevention of Money Laundering Act (PMLA). They shall comply with SEBI's disclosure requirements in addition to that of the primary exchange prior to the listing abroad;
- (c) While raising resources abroad, the listing company shall be fully compliant with the FDI policy in force;
- (d) The capital raised abroad may be utilized for retiring outstanding overseas debt or for operations abroad including for acquisitions;
- (e) In case the funds raised are not utilized abroad as stipulated at (d) above, such companies shall remit the money back to India within 15 days and such money shall be parked only in AD category banks recognized by RBI and may be used domestically.”

3.0 The above decision will take immediate effect.


(Anjali Prasad)

Additional Secretary to the Government of India

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